

February 13, 2004
Case No.: P894 US (2650/8)
Serial No.: 09/905,267
Filed: July 13, 2001
Page 2 of 4

-- REMARKS --

Claims 1-20 are currently pending in the present Application. The pending allowability of dependent claims 6 and 15 is noted. In the Fourth Office Action, Examiner Keaney rejected pending claims 1-5, 7-14, and 16-20 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,797,905 to *Ochmann*. Claims 6 and 15 were objected to as being dependent upon a rejected base claim, however, would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. The Applicant has thoroughly considered the Examiner's remarks concerning the patentability of claims 1-5, 7-14, and 16-20 over *Ochmann*. The Applicant also thoroughly read *Ochmann*.

The 102(b) rejection of claims 1-5, 7-14, and 16-20 is traversed. In order for this rejection to stand, *Ochmann* must disclose each and every element of the claimed invention. Because *Ochmann* does not disclose determining x-ray dose rate based on, among other factors, "radiation depth" as claimed in independent claims 1, 10, 19 and 20, *Ochmann* cannot anticipate the instant invention.

The Examiner incorrectly asserts that *Ochmann* discloses "a controller operably connected to the x-ray emitter (14); wherein the controller determines an actual dose rate based on...a radiation depth...(column 1, lines 39-41)." *Ochmann* discloses only that the x-ray dose rate is measured via an ionization chamber (3) positioned proximally to (i.e., prior to) a target body (13).

For at least these reasons, *Ochmann* cannot anticipate claims 1, 10, 19, and 20. The Application therefore requests withdrawal of the rejection under 35 U.S.C. §102(b) for claims 1, 10, 19, and 20.

February 13, 2004
Case No.: P894 US (2650/8)
Serial No.: 09/905,267
Filed: July 13, 2001
Page 3 of 4

Claims 2-9 and 11-18 claims depend directly or indirectly from independent claims 1 and 10. Therefore, dependent claims 2-9 and 11-18 include all of the elements and limitations of independent claims 1 and 10, respectively. It is therefore respectfully submitted by the Applicant that dependent claims 2-9 and 11-18 are allowable over the *Ochmann Patent* for at least the same reasons as set forth above with respect to independent claims 1 and 10. Withdrawal of the rejections of dependent claims 2-9 and 11-18 is respectfully requested.

February 13, 2004
Case No.: P894 US (2650/8)
Serial No.: 09/905,267
Filed: July 13, 2001
Page 4 of 4

SUMMARY

Examiner Keaney's 35 U.S.C. § 102(b) rejection has been traversed by the above remarks corresponding to claims 1-20. Applicant respectfully submits that claims 1-20 fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112 and are in a condition for allowance. In view of the foregoing remarks, favorable consideration and passage to issue of the present application are respectfully requested.

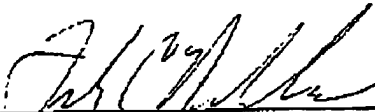
Dated: **February 13, 2004**

Respectfully submitted,
VICTOR I. CHORNENKY

MEDTRONIC VASCULAR, INC.
3576 Unocal Place
Santa Rosa, California 95403
Phone: (707) 566-1746

Catherine C. Maresh
Attorney for Applicant

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113



Frank C. Nicholas
Registration No. 33,983
Attorney for Applicant